

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

PERLEY WINKLER,

Plaintiff,

v.

No.: 3:07-cv-408
(VARLAN/GUYTON)

MONROE COUNTY, TENNESSEE, et al.,

Defendants.

MEMORANDUM

This is a *pro se* prisoner's civil rights complaint under 42 U.S.C. § 1983, in which the plaintiff complains of numerous conditions of his confinement in the Monroe County Jail. After the lawsuit was filed, plaintiff was transferred to the custody of the Tennessee Department of Correction and housed at the Brushy Mountain Correctional Complex. Plaintiff is presently confined in the Irwin County Detention Center in Ocilla, Georgia.

The matter was scheduled for a jury trial and, when plaintiff did not timely file his Pretrial Narrative Statement, the defendants so notified the Court and requested the Court to dismiss the complaint for failure to prosecute. In response, plaintiff filed a motion to amend the scheduling order and a motion for an extension of time. In those motions, plaintiff stated the following: he mailed the Clerk and defense counsel each a copy of his Pretrial Narrative Statement; he was then transferred from Brushy Mountain Correctional Complex to the Blount County Justice Center, and was not allowed to bring his legal paperwork with him; and he needed additional time to prepare another Pretrial Narrative Statement. The trial date

was cancelled and plaintiff was given an additional 60 days within which to file his Pretrial Narrative Statement.

Plaintiff did not timely file his Pretrial Narrative Statement, but rather filed the following: a motion to amend the complaint to state a claim regarding medical co-pays; motions to amend the scheduling order and for an extension of time in order to give plaintiff additional time to file his Pretrial Narrative Statement; and a motion for the Court to order his transportation back to Brushy Mountain Correctional Complex. The defendants have responded to those motions and have also filed a motion to dismiss for lack of prosecution.

As defendants point out, while plaintiff alleges he has been unable to file his Pretrial Narrative Statement, he has filed numerous pleadings with this Court. Presumably, plaintiff is aware of the reasons for filing his lawsuit. The Court also notes that plaintiff has not requested a copy of his original complaint, and the Court thus finds there exist no good reasons why plaintiff has not filed his Pretrial Narrative Statement.

Under the circumstances, defendants' motion to dismiss for failure to prosecute [Doc. 57] is well-taken and will be **GRANTED**. All other pending motions will be **DENIED** as **MOOT**. The Court will **CERTIFY** that any appeal from this action would not be taken in

good faith and would be totally frivolous. *See* Rule 24 of the Federal Rules of Appellate Procedure.

AN APPROPRIATE ORDER WILL ENTER.

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE